

Senate Study Bill 1088

SENATE/HOUSE FILE _____
BY (PROPOSED CIVIL RIGHTS
COMMISSION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act prohibiting discrimination based upon a person's sexual
2 orientation or gender identity under the Iowa civil rights
3 Act.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1218DP 82
6 rh/gg/14

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1 Section 1. Section 216.2, Code 2007, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 9A. "Gender identity" means a person's
4 various individual attributes, actual or perceived, in
5 behavior, practice, or appearance, as the attributes are
6 understood to be masculine or feminine.

7 NEW SUBSECTION. 12A. "Sexual orientation" means actual or
8 perceived heterosexuality, homosexuality, bisexuality, or a
9 person's attributes in behavior, practice, or appearance as
10 they are understood to be masculine or feminine. "Sexual
11 orientation" does not include participation in acts which are
12 prohibited by law.

13 Sec. 2. Section 216.5, subsections 6 and 8, Code 2007, are
14 amended to read as follows:

15 6. To issue such publications and reports of
16 investigations and research as in the judgment of the
17 commission shall tend to promote goodwill among the various
18 racial, religious, and ethnic groups of the state and which
19 shall tend to minimize or eliminate discrimination in public
20 accommodations, employment, apprenticeship and on-the-job
21 training programs, vocational schools, or housing because of
22 race, creed, color, sex, sexual orientation, gender identity,
23 national origin, religion, ancestry, or disability.

24 8. To make recommendations to the general assembly for
25 such further legislation concerning discrimination because of
26 race, creed, color, sex, sexual orientation, gender identity,
27 national origin, religion, ancestry, or disability as it may
28 deem necessary and desirable.

29 Sec. 3. Section 216.6, subsection 1, paragraphs a, b, and
30 c, Code 2007, are amended to read as follows:

31 a. Person to refuse to hire, accept, register, classify,
32 or refer for employment, to discharge any employee, or to
33 otherwise discriminate in employment against any applicant for
34 employment or any employee because of the age, race, creed,
35 color, sex, sexual orientation, gender identity, national
1 origin, religion, or disability of such applicant or employee,
2 unless based upon the nature of the occupation. If a person
3 with a disability is qualified to perform a particular
4 occupation, by reason of training or experience, the nature of
5 that occupation shall not be the basis for exception to the
6 unfair or discriminating practices prohibited by this
7 subsection.

8 b. Labor organization or the employees, agents, or members
9 thereof to refuse to admit to membership any applicant, to
10 expel any member, or to otherwise discriminate against any
11 applicant for membership or any member in the privileges,
12 rights, or benefits of such membership because of the age,
13 race, creed, color, sex, sexual orientation, gender identity,
14 national origin, religion, or disability of such applicant or
15 member.

16 c. Employer, employment agency, labor organization, or the
17 employees, agents, or members thereof to directly or
18 indirectly advertise or in any other manner indicate or

2 19 publicize that individuals of any particular age, race, creed,
2 20 color, sex, sexual orientation, gender identity, national
2 21 origin, religion, or disability are unwelcome, objectionable,
2 22 not acceptable, or not solicited for employment or membership
2 23 unless based on the nature of the occupation. If a person
2 24 with a disability is qualified to perform a particular
2 25 occupation by reason of training or experience, the nature of
2 26 that occupation shall not be the basis for exception to the
2 27 unfair or discriminating practices prohibited by this
2 28 subsection.

2 29 An employer, employment agency, or their employees,
2 30 servants, or agents may offer employment or advertise for
2 31 employment to only persons with disabilities, when other
2 32 applicants have available to them other employment compatible
2 33 with their ability which would not be available to persons
2 34 with disabilities because of their disabilities. Any such
2 35 employment or offer of employment shall not discriminate among
3 1 persons with disabilities on the basis of race, color, creed,
3 2 sex, sexual orientation, gender identity, or national origin.

3 3 Sec. 4. Section 216.6, subsection 6, paragraph d, Code
3 4 2007, is amended to read as follows:

3 5 d. Any bona fide religious institution or its educational
3 6 facility, association, corporation, or society with respect to
3 7 any qualifications for employment based on religion sexual
3 8 orientation, or gender identity, when such qualifications are
3 9 related to a bona fide religious purpose. A religious
3 10 qualification for instructional personnel or an administrative
3 11 officer, serving in a supervisory capacity of a bona fide
3 12 religious educational facility or religious institution, shall
3 13 be presumed to be a bona fide occupational qualification.

3 14 Sec. 5. Section 216.7, subsection 1, paragraphs a and b,
3 15 Code 2007, are amended to read as follows:

3 16 a. To refuse or deny to any person because of race, creed,
3 17 color, sex, sexual orientation, gender identity, national
3 18 origin, religion or disability the accommodations, advantages,
3 19 facilities, services, or privileges thereof, or otherwise to
3 20 discriminate against any person because of race, creed, color,
3 21 sex, sexual orientation, gender identity, national origin,
3 22 religion, or disability in the furnishing of such
3 23 accommodations, advantages, facilities, services, or
3 24 privileges.

3 25 b. To directly or indirectly advertise or in any other
3 26 manner indicate or publicize that the patronage of persons of
3 27 any particular race, creed, color, sex, sexual orientation,
3 28 gender identity, national origin, religion, or disability is
3 29 unwelcome, objectionable, not acceptable, or not solicited.

3 30 Sec. 6. Section 216.7, subsection 2, paragraph a, Code
3 31 2007, is amended to read as follows:

3 32 a. Any bona fide religious institution with respect to any
3 33 qualifications the institution may impose based on religion,
3 34 sexual orientation, or gender identity when such
3 35 qualifications are related to a bona fide religious purpose.

4 1 Sec. 7. Section 216.8, subsections 1 through 4, Code 2007,
4 2 are amended to read as follows:

4 3 1. To refuse to sell, rent, lease, assign, sublease,
4 4 refuse to negotiate, or to otherwise make unavailable, or deny
4 5 any real property or housing accommodation or part, portion or
4 6 interest therein, to any person because of the race, color,
4 7 creed, sex, sexual orientation, gender identity, religion,
4 8 national origin, disability, or familial status of such
4 9 person.

4 10 2. To discriminate against any person because of the
4 11 person's race, color, creed, sex, sexual orientation, gender
4 12 identity, religion, national origin, disability, or familial
4 13 status, in the terms, conditions or privileges of the sale,
4 14 rental, lease assignment or sublease of any real property or
4 15 housing accommodation or any part, portion or interest in the
4 16 real property or housing accommodation or in the provision of
4 17 services or facilities in connection with the real property or
4 18 housing accommodation.

4 19 For purposes of this section, "person" means one or more
4 20 individuals, corporations, partnerships, associations, labor
4 21 organizations, legal representatives, mutual companies, joint
4 22 stock companies, trusts, unincorporated organizations,
4 23 trustees, trustees in cases under Title 11 of the United
4 24 States Code, receivers, and fiduciaries.

4 25 3. To directly or indirectly advertise, or in any other
4 26 manner indicate or publicize that the purchase, rental, lease,
4 27 assignment, or sublease of any real property or housing
4 28 accommodation or any part, portion or interest therein, by
4 29 persons of any particular race, color, creed, sex, sexual

4 30 orientation, gender identity, religion, national origin,
4 31 disability, or familial status is unwelcome, objectionable,
4 32 not acceptable or not solicited.
4 33 4. To discriminate against the lessee or purchaser of any
4 34 real property or housing accommodation or part, portion or
4 35 interest of the real property or housing accommodation, or
5 1 against any prospective lessee or purchaser of the property or
5 2 accommodation, because of the race, color, creed, religion,
5 3 sex, sexual orientation, gender identity, disability, age, or
5 4 national origin of persons who may from time to time be
5 5 present in or on the lessee's or owner's premises for lawful
5 6 purposes at the invitation of the lessee or owner as friends,
5 7 guests, visitors, relatives or in any similar capacity.
5 8 Sec. 8. Section 216.8A, subsections 1 and 2, Code 2007,
5 9 are amended to read as follows:
5 10 1. A person shall not induce or attempt to induce another
5 11 person to sell or rent a dwelling by representations regarding
5 12 the entry or prospective entry into a neighborhood of a person
5 13 of a particular race, color, creed, sex, sexual orientation,
5 14 gender identity, religion, national origin, disability, or
5 15 familial status.
5 16 2. A person shall not represent to a person of a
5 17 particular race, color, creed, sex, sexual orientation, gender
5 18 identity, religion, national origin, disability, or familial
5 19 status that a dwelling is not available for inspection, sale,
5 20 or rental when the dwelling is available for inspection, sale,
5 21 or rental.
5 22 Sec. 9. Section 216.8A, subsection 4, paragraph a, Code
5 23 2007, is amended to read as follows:
5 24 a. A person whose business includes engaging in
5 25 residential real estate related transactions shall not
5 26 discriminate against a person in making a residential real
5 27 estate related transaction available or in terms or conditions
5 28 of a residential real estate related transaction because of
5 29 race, color, creed, sex, sexual orientation, gender identity,
5 30 religion, national origin, disability, or familial status.
5 31 Sec. 10. Section 216.8A, subsection 5, Code 2007, is
5 32 amended to read as follows:
5 33 5. A person shall not deny another person access to, or
5 34 membership or participation in, a multiple-listing service,
5 35 real estate brokers' organization or other service,
6 1 organization, or facility relating to the business of selling
6 2 or renting dwellings, or discriminate against a person in
6 3 terms or conditions of access, membership, or participation in
6 4 such organization because of race, color, creed, sex, sexual
6 5 orientation, gender identity, religion, national origin,
6 6 disability, or familial status.
6 7 Sec. 11. Section 216.9, unnumbered paragraph 1, Code 2007,
6 8 is amended to read as follows:
6 9 It is an unfair or discriminatory practice for any
6 10 educational institution to discriminate on the basis of race,
6 11 creed, color, sex, sexual orientation, gender identity,
6 12 national origin, religion, or disability in any program or
6 13 activity. Such discriminatory practices shall include but not
6 14 be limited to the following practices:
6 15 Sec. 12. Section 216.9, unnumbered paragraph 2, Code 2007,
6 16 is amended to read as follows:
6 17 For the purpose of this section, "educational institution"
6 18 includes any preschool, elementary, secondary, or community
6 19 college, area education agency, or postsecondary college or
6 20 university and their governing boards. This section does not
6 21 prohibit an educational institution from maintaining separate
6 22 toilet facilities, locker rooms, or living facilities for the
6 23 different sexes so long as comparable facilities are provided.
6 24 Nothing in this section shall be construed as prohibiting any
6 25 bona fide religious institution from imposing qualifications
6 26 based on religion, sexual orientation, or gender identity,
6 27 when such qualifications are related to a bona fide religious
6 28 purpose or any institution from admitting students of only one
6 29 sex.
6 30 Sec. 13. Section 216.10, Code 2007, is amended to read as
6 31 follows:
6 32 216.10 UNFAIR CREDIT PRACTICES.
6 33 It shall be an unfair or discriminatory practice for any:
6 34 1. Creditor to refuse to enter into a consumer credit
6 35 transaction or impose finance charges or other terms or
7 1 conditions more onerous than those regularly extended by that
7 2 creditor to consumers of similar economic backgrounds because
7 3 of age, color, creed, national origin, race, religion, marital
7 4 status, sex, sexual orientation, gender identity, physical
7 5 disability, or familial status.

7 6 2. Person authorized or licensed to do business in this
7 7 state pursuant to chapter 524, 533, 534, 536, or 536A to
7 8 refuse to loan or extend credit or to impose terms or
7 9 conditions more onerous than those regularly extended to
7 10 persons of similar economic backgrounds because of age, color,
7 11 creed, national origin, race, religion, marital status, sex,
7 12 sexual orientation, gender identity, physical disability, or
7 13 familial status.

7 14 3. Creditor to refuse to offer credit life or health and
7 15 accident insurance because of color, creed, national origin,
7 16 race, religion, marital status, age, physical disability, sex,
7 17 sexual orientation, gender identity, or familial status.

7 18 Refusal by a creditor to offer credit life or health and
7 19 accident insurance based upon the age or physical disability
7 20 of the consumer shall not be an unfair or discriminatory
7 21 practice if such denial is based solely upon bona fide
7 22 underwriting considerations not prohibited by title XIII,
7 23 subtitle 1.

7 24 The provisions of this section shall not be construed by
7 25 negative implication or otherwise to narrow or restrict any
7 26 other provisions of this chapter.

7 27 Sec. 14. Section 216.12, subsection 1, Code 2007, is
7 28 amended to read as follows:

7 29 1. Any bona fide religious institution with respect to any
7 30 qualifications it may impose based on religion, sexual
7 31 orientation, or gender identity, when the qualifications are
7 32 related to a bona fide religious purpose unless the religious
7 33 institution owns or operates property for a commercial purpose
7 34 or membership in the religion is restricted on account of
7 35 race, color, or national origin.

8 1 Sec. 15. Section 216.12A, Code 2007, is amended to read as
8 2 follows:

8 3 216.12A ADDITIONAL HOUSING EXCEPTION.

8 4 Sections 216.8 and 216.8A do not prohibit a person engaged
8 5 in the business of furnishing appraisals of real estate from
8 6 taking into consideration factors other than race, color,
8 7 creed, sex, sexual orientation, gender identity, religion,
8 8 national origin, disability, or familial status in appraising
8 9 real estate.

8 10 EXPLANATION

8 11 This bill defines "sexual orientation" and "gender
8 12 identity" and prohibits discriminatory employment, public
8 13 accommodation, housing, education, and credit practices based
8 14 upon a person's sexual orientation or gender identity.

8 15 However, the bill does allow for the imposition of
8 16 qualifications by bona fide religious institutions based upon
8 17 sexual orientation or gender identity if related to a bona
8 18 fide religious purpose.

8 19 LSB 1218DP 82

8 20 rh:rj/gg/14